

**Executive Summary – Enforcement Matter – Case No. 43172**

**City of Mullin**

**RN102186756**

**Docket No. 2011-2330-MWD-E**

**Order Type:**

1660 Agreed Order

**Findings Order Justification:**

N/A

**Media:**

MWD

**Small Business:**

No

**Location(s) Where Violation(s) Occurred:**

City of Mullin WWTP, located approximately 3,100 feet south of the intersection of State Highway 183 and Farm-to-Market Road 573 and approximately 1,900 feet east of Farm-to-Market Road 573, Mullin, Mills County

**Type of Operation:**

Wastewater treatment facility

**Other Significant Matters:**

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

**Texas Register Publication Date:** October 12, 2012

**Comments Received:** No

***Penalty Information***

**Total Penalty Assessed:** \$11,500

**Amount Deferred for Expedited Settlement:** \$2,300

**Amount Deferred for Financial Inability to Pay:** \$0

**Total Paid to General Revenue:** \$0

**Total Due to General Revenue:** \$0

Payment Plan: N/A

**SEP Conditional Offset:** \$9,200

Name of SEP: Sewer Repair Project – Compliance SEP

**Compliance History Classifications:**

Person/CN - Average

Site/RN - Average

**Major Source:** No

**Statutory Limit Adjustment:** N/A

**Applicable Penalty Policy:** September 2002

**Executive Summary – Enforcement Matter – Case No. 43172**

**City of Mullin**

**RN102186756**

**Docket No. 2011-2330-MWD-E**

***Investigation Information***

**Complaint Date(s):** N/A

**Complaint Information:** N/A

**Date(s) of Investigation:** November 4, 2011

**Date(s) of NOE(s):** December 5, 2011

***Violation Information***

1. Failed to comply with the permitted effluent limits for total suspended solids ("TSS"). Specifically, Respondent reported TSS daily average concentration values of 23 milligrams per liter ("mg/L") for the monitoring period ending October 31, 2010, 26 mg/L for the monitoring period ending April 30, 2011, 28.5 mg/L for the monitoring period ending May 31, 2011, 21 mg/L for the monitoring period ending June 30, 2011, and 32.75 mg/L for the monitoring period ending July 31, 2011. The TSS daily average concentration permitted effluent limit is 20 mg/L [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0013758001, Effluent Limitations and Monitoring Requirements No. 1].

2. Failed to collect and analyze samples for required parameters at the frequency specified in the permit. Specifically, the quarterly *Escherichia coli* samples were not collected or analyzed for the monitoring periods ending February 28, 2011 and May 31, 2011 [30 TEX. ADMIN. CODE §§ 305.125(11)(a) and 319.4 and TPDES Permit No. WQ0013758001, Monitoring and Reporting Requirements Nos. 1 and 3.a.].

***Corrective Actions/Technical Requirements***

**Corrective Action(s) Completed:**

N/A

**Technical Requirements:**

1. The Order will require Respondent to implement and complete a Supplemental Environmental Project ("SEP"). (See SEP Attachment A)

2. The Order will also require Respondent to:

a. Update the Facility's operational guidance and conduct employee training to ensure that all samples are collected and analyzed for the permitted parameters at the minimum frequency; and

b. Within 90 days, submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0013758001 and Ordering Provision a., including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports,

**Executive Summary – Enforcement Matter – Case No. 43172**

**City of Mullin**

**RN102186756**

**Docket No. 2011-2330-MWD-E**

demonstrating at least three consecutive months of compliance with all permitted effluent limitations.

***Litigation Information***

**Date Petition(s) Filed:** N/A

**Date Answer(s) Filed:** N/A

**SOAH Referral Date:** N/A

**Hearing Date(s):** N/A

**Settlement Date:** N/A

***Contact Information***

**TCEQ Attorney:** N/A

**TCEQ Enforcement Coordinator:** Jill Russell, Enforcement Division, Enforcement Team 3, MC 169, (512) 239-4564; Debra Barber, Enforcement Division, MC 219, (512) 239-0412

**TCEQ SEP Coordinator:** Sharon Blue, SEP Coordinator, Litigation Division, MC 175, (512) 239-2223

**Respondent:** The Honorable M. Jean Smith, Mayor, City of Mullin, P.O. Box 96, Mullin, Texas 76864

**Respondent's Attorney:** N/A



|             |              |                      |                 |                       |         |
|-------------|--------------|----------------------|-----------------|-----------------------|---------|
| <b>TCEQ</b> | <b>DATES</b> | Assigned 12-Dec-2011 | PCW 27-Dec-2011 | Screening 20-Dec-2011 | EPA Due |
|-------------|--------------|----------------------|-----------------|-----------------------|---------|

|  |                          |
|--|--------------------------|
| <b>RESPONDENT/FACILITY INFORMATION</b> |                          |
| Respondent City of Mullin              |                          |
| Reg. Ent. Ref. No. RN102186756         |                          |
| Facility/Site Region 9-Waco            | Major/Minor Source Minor |

|                                     |                               |
|-------------------------------------|-------------------------------|
| <b>CASE INFORMATION</b>             |                               |
| Enf./Case ID No. 43172              | No. of Violations 2           |
| Docket No. 2011-2330-MWD-E          | Order Type 1660               |
| Media Program(s) Water Quality      | Government/Non-Profit Yes     |
| Multi-Media                         | Enf. Coordinator Samuel Short |
|                                     | EC's Team Enforcement Team 3  |
| Admin. Penalty \$ Limit Minimum \$0 | Maximum \$10,000              |

| Penalty Calculation Section   |   |                                |                          |
|---|---|--------------------------------|--------------------------|
| <b>TOTAL BASE PENALTY (Sum of violation base penalties)</b>   |   | <b>Subtotal 1</b>              | \$5,000                  |
| <b>ADJUSTMENTS (+/-) TO SUBTOTAL 1</b>  |   |                                |                          |
| Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.  |   |                                |                          |
| <b>Compliance History</b>   | 133.0% Enhancement  | <b>Subtotals 2, 3, &amp; 7</b> | \$6,650                  |
| Notes   | Enhancement for nineteen months of self-reported effluent violations, two NOVs for the same/similar violations, four NOVs for dissimilar violations, and one agreed order with denial of liability. |                                |                          |
| <b>Culpability</b>  | No 0.0% Enhancement   | <b>Subtotal 4</b>              | \$0                      |
| Notes   | The Respondent does not meet the culpability criteria.  |                                |                          |
| <b>Good Faith Effort to Comply Total Adjustments</b>  |   | <b>Subtotal 5</b>              | \$0                      |
| <b>Economic Benefit</b>   | 0.0% Enhancement*   | <b>Subtotal 6</b>              | \$0                      |
| <div style="display: flex; justify-content: space-between;"> <div style="font-size: x-small;">             Total EB Amounts \$1,560<br/>             Approx. Cost of Compliance \$15,350           </div> <div style="font-size: x-small;">*Capped at the Total EB \$ Amount</div> </div> |   |                                |                          |
| <b>SUM OF SUBTOTALS 1-7</b>   |   | <b>Final Subtotal</b>          | \$11,650                 |
| <b>OTHER FACTORS AS JUSTICE MAY REQUIRE</b>   |   | -1.3%                          | <b>Adjustment</b> -\$150 |
| Reduces or enhances the Final Subtotal by the indicated percentage.   |   |                                |                          |
| Notes   | Recommended reduction to prevent double-enhancement of the penalty amount for same violations that were self-reported.  |                                |                          |
|   |   | <b>Final Penalty Amount</b>    | \$11,500                 |
| <b>STATUTORY LIMIT ADJUSTMENT</b>   |   | <b>Final Assessed Penalty</b>  | \$11,500                 |
| <b>DEFERRAL</b>   | 20.0% Reduction   | <b>Adjustment</b>              | -\$2,300                 |
| Reduces the Final Assessed Penalty by the indicted percentage. (Enter number only; e.g. 20 for 20% reduction.)  |   |                                |                          |
| Notes   | Deferral offered for expedited settlement.  |                                |                          |
| <b>PAYABLE PENALTY</b>  |   |                                | \$9,200                  |

Screening Date 20-Dec-2011

Docket No. 2011-2330-MWD-E

PCW

Respondent City of Mullin

Policy Revision 2 (September 2002)

Case ID No. 43172

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102186756

Media [Statute] Water Quality

Enf. Coordinator Samuel Short

## Compliance History Worksheet

## &gt;&gt; Compliance History Site Enhancement (Subtotal 2)

| Component                     | Number of...   | Enter Number Here | Adjust. |
|-------------------------------|--|-------------------|---------|
| NOVs                          | Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action ( <i>number of NOVs meeting criteria</i> )  | 21                | 105%    |
|                               | Other written NOVs   | 4                 | 8%      |
| Orders                        | Any agreed final enforcement orders containing a denial of liability ( <i>number of orders meeting criteria</i> )  | 1                 | 20%     |
|                               | Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission | 0                 | 0%      |
| Judgments and Consent Decrees | Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government ( <i>number of judgements or consent decrees meeting criteria</i> )                              | 0                 | 0%      |
|                               | Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government  | 0                 | 0%      |
| Convictions                   | Any criminal convictions of this state or the federal government ( <i>number of counts</i> )   | 0                 | 0%      |
| Emissions                     | Chronic excessive emissions events ( <i>number of events</i> )   | 0                 | 0%      |
| Audits                        | Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which notices were submitted</i> )     | 0                 | 0%      |
|                               | Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 ( <i>number of audits for which violations were disclosed</i> )  | 0                 | 0%      |
| Please Enter Yes or No        |  |                   |         |
| Other                         | Environmental management systems in place for one year or more   | No                | 0%      |
|                               | Voluntary on-site compliance assessments conducted by the executive director under a special assistance program  | No                | 0%      |
|                               | Participation in a voluntary pollution reduction program   | No                | 0%      |
|                               | Early compliance with, or offer of a product that meets future state or federal government environmental requirements  | No                | 0%      |

Adjustment Percentage (Subtotal 2) 133%

## &gt;&gt; Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

## &gt;&gt; Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

## &gt;&gt; Compliance History Summary

## Compliance History Notes

Enhancement for nineteen months of self-reported effluent violations, two NOVs for the same/similar violations, four NOVs for dissimilar violations, and one agreed order with denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, &amp; 7) 133%

Screening Date 20-Dec-2011

Docket No. 2011-2330-MWD-E

PCW

Respondent City of Mullin

Policy Revision 2 (September 2002)

Case ID No. 43172

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102186756

Media [Statute] Water Quality

Enf. Coordinator Samuel Short

Violation Number 1

Rule Cite(s) Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0013758001, Effluent Limitations and Monitoring Requirements No. 1

## Violation Description

Failed to comply with the permitted effluent limits, as documented during a record review conducted on November 4, 2011. Specifically, the Respondent reported total suspended solids ("TSS") daily average concentration values of 23 milligrams per liter ("mg/L") for the monitoring period ending October 31, 2010, 26 mg/L for the monitoring period ending April 30, 2011, 28.5 mg/L for the monitoring period ending May 31, 2011, 21 mg/L for the monitoring period ending June 30, 2011, and 32.75 mg/L for the monitoring period ending July 31, 2011. The TSS daily average concentration permitted effluent limit is 20 mg/L.

Base Penalty \$10,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

| Release   | Harm  |          |       |
|-----------|-------|----------|-------|
|           | Major | Moderate | Minor |
| Actual    |       |          | X     |
| Potential |       |          |       |

Percent 10%

## &gt;&gt; Programmatic Matrix

| Falsification | Major | Moderate | Minor |
|---------------|-------|----------|-------|
|               |       |          |       |

Percent 0%

Matrix Notes

Human health or the environment has been exposed to insignificant amount of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of this violation.

Adjustment \$9,000

\$1,000

## Violation Events

Number of Violation Events 3

153 Number of violation days

mark only one with an x

|              |   |
|--------------|---|
| daily        |   |
| weekly       |   |
| monthly      |   |
| quarterly    | X |
| semiannual   |   |
| annual       |   |
| single event |   |

Violation Base Penalty \$3,000

Three quarterly events are recommended.

## Good Faith Efforts to Comply

0.0% Reduction

\$0

|               | Before NOV | NOV to EDPRP/Settlement Offer |
|---------------|------------|-------------------------------|
| Extraordinary |            |                               |
| Ordinary      |            |                               |
| N/A           | X          | (mark with x)                 |

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$3,000

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$1,432

Violation Final Penalty Total \$6,900

This violation Final Assessed Penalty (adjusted for limits) \$6,900

# Economic Benefit Worksheet

Respondent City of Mullin  
Case ID No. 43172  
Reg. Ent. Reference No. RN102186756  
Media Water Quality  
Violation No. 1

| Percent Interest | Years of Depreciation |
|------------------|-----------------------|
| 5.0              | 15                    |

| Item Description | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|
|------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|

## Delayed Costs

|                          |          |             |             |      |         |     |         |
|--------------------------|----------|-------------|-------------|------|---------|-----|---------|
| Equipment                |          |             |             | 0.00 | \$0     | \$0 | \$0     |
| Buildings                |          |             |             | 0.00 | \$0     | \$0 | \$0     |
| Other (as needed)        |          |             |             | 0.00 | \$0     | \$0 | \$0     |
| Engineering/construction |          |             |             | 0.00 | \$0     | \$0 | \$0     |
| Land                     |          |             |             | 0.00 | \$0     | n/a | \$0     |
| Record Keeping System    |          |             |             | 0.00 | \$0     | n/a | \$0     |
| Training/Sampling        |          |             |             | 0.00 | \$0     | n/a | \$0     |
| Remediation/Disposal     |          |             |             | 0.00 | \$0     | n/a | \$0     |
| Permit Costs             |          |             |             | 0.00 | \$0     | n/a | \$0     |
| Other (as needed)        | \$15,000 | 31-Oct-2010 | 27-Sep-2012 | 1.91 | \$1,432 | n/a | \$1,432 |

Notes for DELAYED costs

Estimated cost to evaluate the causes of the effluent violations and to implement necessary rehabilitation to the wastewater treatment system. Date required is the first date of non-compliance. The final date is the expected date of compliance.

## Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

|                               |  |  |  |      |     |     |     |
|-------------------------------|--|--|--|------|-----|-----|-----|
| Disposal                      |  |  |  | 0.00 | \$0 | \$0 | \$0 |
| Personnel                     |  |  |  | 0.00 | \$0 | \$0 | \$0 |
| Inspection/Reporting/Sampling |  |  |  | 0.00 | \$0 | \$0 | \$0 |
| Supplies/equipment            |  |  |  | 0.00 | \$0 | \$0 | \$0 |
| Financial Assurance [2]       |  |  |  | 0.00 | \$0 | \$0 | \$0 |
| ONE-TIME avoided costs [3]    |  |  |  | 0.00 | \$0 | \$0 | \$0 |
| Other (as needed)             |  |  |  | 0.00 | \$0 | \$0 | \$0 |

Notes for AVOIDED costs

Approx. Cost of Compliance

\$15,000

TOTAL

\$1,432



Screening Date 20-Dec-2011

Docket No. 2011-2330-MWD-E

PCW

Respondent City of Mullin

Policy Revision 2 (September 2002)

Case ID No. 43172

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102186756

Media [Statute] Water Quality

Enf. Coordinator Samuel Short

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code §§ 305.125(11)(a) and 319.4 and TPDES Permit No. WQ0013758001, Monitoring and Reporting Requirements Nos. 1 and 3.a.

Violation Description

Failed to collect and analyze samples for required parameters at the frequency specified in the permit. Specifically, the quarterly Escherichia coli samples were not collected or analyzed for the monitoring periods ending February 28, 2011 and May 31, 2011.

Base Penalty \$10,000

## &gt;&gt; Environmental, Property and Human Health Matrix

OR

|           | Harm  |          |       |
|-----------|-------|----------|-------|
| Release   | Major | Moderate | Minor |
| Actual    |       |          |       |
| Potential |       | x        |       |

Percent 10%

## &gt;&gt; Programmatic Matrix

|  | Falsification | Major | Moderate | Minor |
|--|---------------|-------|----------|-------|
|  |               |       |          |       |

Percent 0%

Matrix Notes

Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$9,000

\$1,000

## Violation Events

Number of Violation Events 2

275 Number of violation days

mark only one  
with an x

|              |   |
|--------------|---|
| daily        |   |
| weekly       |   |
| monthly      |   |
| quarterly    | x |
| semiannual   |   |
| annual       |   |
| single event |   |

Violation Base Penalty \$2,000

Two quarterly events are recommended (one for each quarter the sampling was due).

## Good Faith Efforts to Comply

0.0% Reduction

\$0

Before NOV NOV to EDPRP/Settlement Offer

|               |   |               |
|---------------|---|---------------|
| Extraordinary |   |               |
| Ordinary      |   |               |
| N/A           | x | (mark with x) |

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$2,000

## Economic Benefit (EB) for this violation

## Statutory Limit Test

Estimated EB Amount \$128

Violation Final Penalty Total \$4,600

This violation Final Assessed Penalty (adjusted for limits) \$4,600

## Economic Benefit Worksheet

**Respondent** City of Mullin  
**Case ID No.** 43172  
**Req. Ent. Reference No.** RN102186756  
**Media** Water Quality  
**Violation No.** 2

| Percent Interest | Years of Depreciation |
|------------------|-----------------------|
| 5.0              | 15                    |

| Item Description | Item Cost | Date Required | Final Date | Yrs | Interest Saved | Onetime Costs | EB Amount |
|------------------|-----------|---------------|------------|-----|----------------|---------------|-----------|
| No commas or \$  |           |               |            |     |                |               |           |

### Delayed Costs

|                          |       |            |             |      |      |     |      |
|--------------------------|-------|------------|-------------|------|------|-----|------|
| Equipment                |       |            |             | 0.00 | \$0  | \$0 | \$0  |
| Buildings                |       |            |             | 0.00 | \$0  | \$0 | \$0  |
| Other (as needed)        |       |            |             | 0.00 | \$0  | \$0 | \$0  |
| Engineering/construction |       |            |             | 0.00 | \$0  | \$0 | \$0  |
| Land                     |       |            |             | 0.00 | \$0  | n/a | \$0  |
| Record Keeping System    |       |            |             | 0.00 | \$0  | n/a | \$0  |
| Training/Sampling        | \$250 | 1-Dec-2010 | 27-Jul-2012 | 1.65 | \$21 | n/a | \$21 |
| Remediation/Disposal     |       |            |             | 0.00 | \$0  | n/a | \$0  |
| Permit Costs             |       |            |             | 0.00 | \$0  | n/a | \$0  |
| Other (as needed)        |       |            |             | 0.00 | \$0  | n/a | \$0  |

Notes for DELAYED costs

Estimated cost to update the Facility's operational guidance and conduct employee training to ensure that all samples are collected and analyzed for the permitted parameters at the minimum frequency. Date required is the date the sampling was due and the final date is the expected date of compliance.

### Avoided Costs

#### ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

|                               |       |            |             |      |     |       |       |
|-------------------------------|-------|------------|-------------|------|-----|-------|-------|
| Disposal                      |       |            |             | 0.00 | \$0 | \$0   | \$0   |
| Personnel                     |       |            |             | 0.00 | \$0 | \$0   | \$0   |
| Inspection/Reporting/Sampling |       |            |             | 0.00 | \$0 | \$0   | \$0   |
| Supplies/equipment            |       |            |             | 0.00 | \$0 | \$0   | \$0   |
| Financial Assurance [2]       |       |            |             | 0.00 | \$0 | \$0   | \$0   |
| ONE-TIME avoided costs [3]    | \$100 | 1-Dec-2010 | 31-May-2011 | 1.41 | \$7 | \$100 | \$107 |
| Other (as needed)             |       |            |             | 0.00 | \$0 | \$0   | \$0   |

Notes for AVOIDED costs

Estimated cost to collect and analyze samples for required parameters (\$50 per parameter). Date required is the first day of the first quarter the sampling was due. Final date is the last day of the last quarter the sampling was due.

Approx. Cost of Compliance

\$350

**TOTAL**

\$128

| <b>Effluent Violations Table</b>    |                                  |
|-------------------------------------|----------------------------------|
| City of Mullin                      |                                  |
| RN102186756; Docket 2011-2330-MWD-E |                                  |
| TPDES Permit No. WQ0013785001       |                                  |
|                                     | Total Suspended Solids DAV Conc. |
| Month/<br>Year                      | Limit =<br>20 mg/L               |
| October<br>2010                     | 23.00                            |
| April 2011                          | 26.00                            |
| May 2011                            | 28.50                            |
| June 2011                           | 21.00                            |
| July 2011                           | 32.75                            |

DAV = Daily Average  
 mg/L = milligrams per liter  
 Conc. = concentration



## Compliance History

Customer/Respondent/Owner-Operator: CN601181399 City of Mullin Classification: AVERAGE Rating: 5.06

Regulated Entity: RN102186756 CITY OF MULLIN Classification: AVERAGE Site Rating: 5.06

ID Number(s): WASTEWATER PERMIT WQ0013758001  
WASTEWATER EPA ID TX0119008

Location: LOCATED APPROXIMATELY 3,100 FEET SOUTH OF THE  
INTERSECTION OF STATE HIGHWAY 183 AND FARM-TO-  
MARKET ROAD 573 AND APPROXIMATELY 1,900 FEET EAST  
OF FARM-TO-MARKET ROAD 573 IN MULLIN, MILLS COUNTY,  
TEXAS

TCEQ Region: REGION 09 - WACO

Date Compliance History Prepared: December 20, 2011

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: December 20, 2006 to December 20, 2011

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Samuel Short Phone: (512) 239-5363

### Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? YES
2. Has there been a (known) change in ownership/operator of the site during the compliance period? NO
3. If YES, who is the current owner/operator? N/A
4. If YES, who was/were the prior owner(s)/operator(s)? N/A
5. If YES, when did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2011 Repeat Violator: NO

### Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.

Effective Date: 03/08/2010

ADMINORDER 2008-1820-MWD-E

Classification: Moderate

Citation: 2D TWC Chapter 26, SubChapter A 26.121(a)  
30 TAC Chapter 305, SubChapter F 305.125(1)

Rqmt Prov: Effluent Limits PERMIT

Description: Failure to comply with permit effluent limits as documented by a TCEQ record review of self-reported data.

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(17)

Rqmt Prov: Self-reporting Requirements PERMIT

Description: Failure to submit effluent monitoring results at the intervals specified in the permit as documented by a TCEQ record review.

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(17)

Rqmt Prov: Self-reporting Requirements PERMIT

Description: Failure to submit sludge monitoring results at the intervals specified in the permit as documented by a TCEQ record review.

- B. Any criminal convictions of the state of Texas and the federal government.

N/A

- C. Chronic excessive emissions events.

N/A

- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

|    |            |          |
|----|------------|----------|
| 2  | 04/07/2008 | (696015) |
| 3  | 04/07/2008 | (696016) |
| 4  | 04/07/2008 | (696017) |
| 5  | 05/06/2008 | (696018) |
| 6  | 11/07/2008 | (704959) |
| 7  | 06/16/2008 | (717636) |
| 8  | 07/10/2008 | (717637) |
| 9  | 09/17/2008 | (717638) |
| 10 | 09/17/2008 | (717639) |
| 11 | 11/20/2008 | (732956) |
| 12 | 12/01/2008 | (732957) |
| 13 | 12/01/2008 | (732958) |
| 14 | 03/31/2009 | (740485) |
| 15 | 03/23/2009 | (756163) |
| 16 | 04/01/2009 | (756164) |
| 17 | 02/02/2009 | (756165) |
| 18 | 02/02/2009 | (756166) |
| 19 | 06/03/2009 | (773153) |
| 20 | 06/03/2009 | (773154) |
| 21 | 01/11/2010 | (786022) |
| 22 | 05/26/2010 | (797426) |
| 23 | 04/05/2010 | (819619) |
| 24 | 08/25/2009 | (819620) |
| 25 | 02/02/2009 | (819621) |
| 26 | 08/25/2009 | (819622) |
| 27 | 08/25/2009 | (819623) |
| 28 | 02/02/2009 | (819624) |
| 29 | 10/08/2009 | (819625) |
| 30 | 02/02/2009 | (819626) |
| 31 | 12/03/2009 | (819627) |
| 32 | 02/02/2009 | (819628) |
| 33 | 12/03/2009 | (819629) |
| 34 | 02/02/2009 | (819630) |
| 35 | 01/28/2010 | (819631) |
| 36 | 02/02/2009 | (819632) |
| 37 | 01/28/2010 | (819633) |
| 38 | 09/28/2010 | (825193) |
| 39 | 04/19/2010 | (827928) |
| 40 | 04/05/2010 | (836118) |
| 41 | 06/25/2010 | (845392) |
| 42 | 06/25/2010 | (847881) |
| 43 | 06/25/2010 | (862292) |
| 44 | 10/20/2010 | (864110) |
| 45 | 09/28/2010 | (875759) |
| 46 | 09/28/2010 | (875760) |
| 47 | 09/28/2010 | (875761) |
| 48 | 02/10/2011 | (910883) |
| 49 | 04/22/2011 | (912124) |
| 50 | 02/10/2011 | (930495) |
| 51 | 02/10/2011 | (930496) |
| 52 | 02/10/2011 | (930497) |
| 53 | 10/11/2011 | (950868) |
| 54 | 11/23/2011 | (963140) |
| 55 | 12/06/2011 | (964907) |

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Classification: Moderate

Classification: Moderate

Classification: Moderate

|              |  |          |                          |
|--------------|--|----------|--------------------------|
| Citation:    | 30 TAC Chapter 305, SubChapter F 305.125(1)  |          |                          |
| Description: | 30 TAC Chapter 305, SubChapter F 305.125(17)   |          |                          |
| Date         | 01/31/2008   | (696015) | CN601181399              |
| Self Report? | YES  |          | Classification: Moderate |
| Citation:    | 2D TWC Chapter 26, SubChapter A 26.121(a)  |          |                          |
|              | 30 TAC Chapter 305, SubChapter F 305.125(1)  |          |                          |
| Description: | Failure to meet the limit for one or more permit parameter   |          |                          |
| Date         | 02/29/2008   | (696016) | CN601181399              |
| Self Report? | YES  |          | Classification: Moderate |
| Citation:    | 2D TWC Chapter 26, SubChapter A 26.121(a)  |          |                          |
|              | 30 TAC Chapter 305, SubChapter F 305.125(1)  |          |                          |
| Description: | Failure to meet the limit for one or more permit parameter   |          |                          |
| Date         | 03/31/2008   | (696017) | CN601181399              |
| Self Report? | YES  |          | Classification: Moderate |
| Citation:    | 2D TWC Chapter 26, SubChapter A 26.121(a)  |          |                          |
|              | 30 TAC Chapter 305, SubChapter F 305.125(1)  |          |                          |
| Description: | Failure to meet the limit for one or more permit parameter   |          |                          |
| Date         | 04/30/2008   | (696018) | CN601181399              |
| Self Report? | YES  |          | Classification: Moderate |
| Citation:    | 2D TWC Chapter 26, SubChapter A 26.121(a)  |          |                          |
|              | 30 TAC Chapter 305, SubChapter F 305.125(1)  |          |                          |
| Description: | Failure to meet the limit for one or more permit parameter   |          |                          |
| Date         | 05/31/2008   | (717636) | CN601181399              |
| Self Report? | YES  |          | Classification: Moderate |
| Citation:    | 2D TWC Chapter 26, SubChapter A 26.121(a)  |          |                          |
|              | 30 TAC Chapter 305, SubChapter F 305.125(1)  |          |                          |
| Description: | Failure to meet the limit for one or more permit parameter   |          |                          |
| Date         | 09/30/2008   | (732957) | CN601181399              |
| Self Report? | YES  |          | Classification: Moderate |
| Citation:    | 2D TWC Chapter 26, SubChapter A 26.121(a)  |          |                          |
|              | 30 TAC Chapter 305, SubChapter F 305.125(1)  |          |                          |
| Description: | Failure to meet the limit for one or more permit parameter   |          |                          |
| Date         | 10/31/2008   | (732958) | CN601181399              |
| Self Report? | YES  |          | Classification: Moderate |
| Citation:    | 2D TWC Chapter 26, SubChapter A 26.121(a)  |          |                          |
|              | 30 TAC Chapter 305, SubChapter F 305.125(1)  |          |                          |
| Description: | Failure to meet the limit for one or more permit parameter   |          |                          |
| Date         | 02/28/2009   | (756164) | CN601181399              |
| Self Report? | YES  |          | Classification: Moderate |
| Citation:    | 2D TWC Chapter 26, SubChapter A 26.121(a)  |          |                          |
|              | 30 TAC Chapter 305, SubChapter F 305.125(1)  |          |                          |
| Description: | Failure to meet the limit for one or more permit parameter   |          |                          |
| Date         | 03/27/2009   | (740485) | CN601181399              |
| Self Report? | NO   |          | Classification: Minor    |
| Citation:    | 30 TAC Chapter 305, SubChapter F 305.125(1)  |          |                          |
|              | 30 TAC Chapter 305, SubChapter F 305.125(5)  |          |                          |
|              | Operational Requirements; no. 4, pg. 10 PERMIT   |          |                          |
| Description: | Failure to install and subsequently maintain adequate safeguards to prevent the discharge of untreated or inadequately treated wastes during electrical power failures by means of alternate power sources, standby generators, and/or retention of inadequately treated wastewater. |          |                          |
| Date         | 03/31/2009   | (773153) | CN601181399              |
| Self Report? | YES  |          | Classification: Moderate |
| Citation:    | 2D TWC Chapter 26, SubChapter A 26.121(a)  |          |                          |
|              | 30 TAC Chapter 305, SubChapter F 305.125(1)  |          |                          |
| Description: | Failure to meet the limit for one or more permit parameter   |          |                          |
| Date         | 04/30/2009   | (773154) | CN601181399              |
| Self Report? | YES  |          | Classification: Moderate |
| Citation:    | 2D TWC Chapter 26, SubChapter A 26.121(a)  |          |                          |
|              | 30 TAC Chapter 305, SubChapter F 305.125(1)  |          |                          |
| Description: | Failure to meet the limit for one or more permit parameter   |          |                          |
| Date         | 09/30/2009   | (819627) | CN601181399              |
| Self Report? | YES  |          | Classification: Moderate |
| Citation:    | 2D TWC Chapter 26, SubChapter A 26.121(a)  |          |                          |
|              | 30 TAC Chapter 305, SubChapter F 305.125(1)  |          |                          |
| Description: | Failure to meet the limit for one or more permit parameter   |          |                          |
| Date         | 04/19/2010   | (827928) | CN601181399              |
| Self Report? | NO   |          | Classification: Moderate |



|              |  |          |                          |
|--------------|--|----------|--------------------------|
| Citation:    | 30 TAC Chapter 305, SubChapter F 305.125(1)  |          |                          |
| Description: | 30 TAC Chapter 305, SubChapter F 305.125(17)   |          |                          |
| Date         | 04/30/2010   | (845392) | CN601181399              |
| Self Report? | YES  |          | Classification: Moderate |
| Citation:    | 2D TWC Chapter 26, SubChapter A 26.121(a)  |          |                          |
|              | 30 TAC Chapter 305, SubChapter F 305.125(1)  |          |                          |
| Description: | Failure to meet the limit for one or more permit parameter   |          |                          |
| Date         | 05/25/2010   | (797426) | CN601181399              |
| Self Report? | NO   |          | Classification: Moderate |
| Citation:    | 30 TAC Chapter 305, SubChapter F 305.125(1)  |          |                          |
|              | 30 TAC Chapter 305, SubChapter F 305.125(5)  |          |                          |
|              | Operational Requirements, No. 1 Pg. 9 PERMIT   |          |                          |
| Description: | Failure by the permittee to properly maintain solids.  |          |                          |
| Self Report? | NO   |          | Classification: Minor    |
| Citation:    | 30 TAC Chapter 305, SubChapter F 305.125(1)  |          |                          |
|              | Operational Requirements, No. 1 Pg. 9 PERMIT   |          |                          |
| Description: | Failure by the permittee to ensure that all systems of collection, treatment, and disposal are properly operated and maintained. |          |                          |
| Self Report? | NO   |          | Classification: Moderate |
| Citation:    | 30 TAC Chapter 305, SubChapter F 305.125(1)  |          |                          |
|              | Operational Requirements, No. 1 Pg. 9 PERMIT   |          |                          |
| Description: | Failure by the permittee to ensure that all systems of collection, treatment, and disposal are properly operated and maintained. |          |                          |
| Self Report? | NO   |          | Classification: Minor    |
| Citation:    | 30 TAC Chapter 317 317.6(c)(1)   |          |                          |
| Description: | Failure by the permittee to maintain functional chlorine disinfection scales.  |          |                          |
| Date         | 05/31/2010   | (847881) | CN601181399              |
| Self Report? | YES  |          | Classification: Moderate |
| Citation:    | 2D TWC Chapter 26, SubChapter A 26.121(a)  |          |                          |
|              | 30 TAC Chapter 305, SubChapter F 305.125(1)  |          |                          |
| Description: | Failure to meet the limit for one or more permit parameter   |          |                          |
| Date         | 07/31/2010   | (875760) | CN601181399              |
| Self Report? | YES  |          | Classification: Moderate |
| Citation:    | 2D TWC Chapter 26, SubChapter A 26.121(a)  |          |                          |
|              | 30 TAC Chapter 305, SubChapter F 305.125(1)  |          |                          |
| Description: | Failure to meet the limit for one or more permit parameter   |          |                          |
| Date         | 10/27/2010   | (864110) | CN601181399              |
| Self Report? | NO   |          | Classification: Moderate |
| Citation:    | 30 TAC Chapter 305, SubChapter F 305.125(1)  |          |                          |
|              | 30 TAC Chapter 305, SubChapter F 305.125(5)  |          |                          |
|              | Operational Requirements, No. 1 Pg. 9 PERMIT   |          |                          |
| Description: | Failure by the permittee to properly maintain solids.  |          |                          |
| Self Report? | NO   |          | Classification: Minor    |
| Citation:    | 30 TAC Chapter 317 317.6(c)(1)   |          |                          |
| Description: | Failure by the permittee to maintain functional chlorine disinfection scales.  |          |                          |
| Self Report? | NO   |          | Classification: Moderate |
| Citation:    | 30 TAC Chapter 317 317.7(i)  |          |                          |
| Description: | Failure by the permittee to provide a backflow prevention device at the potable water connection at the plant.                   |          |                          |
| Self Report? | NO   |          | Classification: Minor    |
| Citation:    | 30 TAC Chapter 305, SubChapter F 305.125(1)  |          |                          |
|              | Effl. Lmts. and Monit. Reqs., No.1 Pg.2 PERMIT   |          |                          |
| Description: | Failure to discharge effluent in compliance with the permitted effluent limitations.   |          |                          |
| Date         | 10/31/2010   | (930496) | CN601181399              |
| Self Report? | YES  |          | Classification: Moderate |
| Citation:    | 2D TWC Chapter 26, SubChapter A 26.121(a)  |          |                          |
|              | 30 TAC Chapter 305, SubChapter F 305.125(1)  |          |                          |
| Description: | Failure to meet the limit for one or more permit parameter   |          |                          |
| Date         | 04/26/2011   | (912124) | CN601181399              |
| Self Report? | NO   |          | Classification: Major    |
| Citation:    | 30 TAC Chapter 305, SubChapter F 305.125(1)  |          |                          |
|              | 30 TAC Chapter 305, SubChapter O 305.535(b)(1)   |          |                          |
|              | Permit Conditions, Pg. 7, No. 2 (h) PERMIT   |          |                          |
| Description: | Failure by the permittee to notify the TCEQ of a bypass.   |          |                          |
| Self Report? | NO   |          | Classification: Moderate |
| Citation:    | 30 TAC Chapter 305, SubChapter F 305.125(1)  |          |                          |
|              | Effl. Lmts. and Monit. Reqs., No.2 Pg.2 PERMIT   |          |                          |
| Description: | Failure by the permittee to comply with permitted effluent limitations for chlorine.   |          |                          |

|              |   |                 |             |
|--------------|---|-----------------|-------------|
| Self Report? | NO  | Classification: | Moderate    |
| Citation:    | 30 TAC Chapter 305, SubChapter F 305.125(1)<br>Effl. Lmt. and Monit. Reqs., No. 1 Pg. 2 PERMIT  |                 |             |
| Description: | Failure by the permittee to comply with the permitted effluent limitations.   |                 |             |
| Self Report? | NO  | Classification: | Moderate    |
| Citation:    | 30 TAC Chapter 305, SubChapter F 305.125(1)<br>30 TAC Chapter 319, SubChapter A 319.11(d)<br>Monit. and Reprt. Reqs., No. 2 Pg.4 PERMIT |                 |             |
| Description: | Failure by the permittee to properly measure flow of the effluent.  |                 |             |
| Self Report? | NO  | Classification: | Major       |
| Citation:    | 30 TAC Chapter 305, SubChapter F 305.125(1)<br>30 TAC Chapter 319, SubChapter A 319.4<br>Monit. and Rpt. Reqs., Pg. 4 No. 1 PERMIT      |                 |             |
| Description: | Failure by the permittee to conduct effluent monitoring.  |                 |             |
| Self Report? | NO  | Classification: | Moderate    |
| Citation:    | 30 TAC Chapter 305, SubChapter F 305.125(1)<br>Operational Requirements, No. 1 Pg. 9 PERMIT   |                 |             |
| Description: | Failure by the permittee to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.        |                 |             |
| Self Report? | NO  | Classification: | Minor       |
| Citation:    | 30 TAC Chapter 305, SubChapter F 305.125(1)   |                 |             |
| Description: | Failure by the permittee to ensure that all systems of collection, treatment, and disposal are properly operated and maintained.        |                 |             |
| Date         | 04/30/2011  | (967201)        | CN601181399 |
| Self Report? | YES   | Classification: | Moderate    |
| Citation:    | 2D TWC Chapter 26, SubChapter A 26.121(a)<br>30 TAC Chapter 305, SubChapter F 305.125(1)  |                 |             |
| Description: | Failure to meet the limit for one or more permit parameter  |                 |             |
| Date         | 05/31/2011  | (967202)        | CN601181399 |
| Self Report? | YES   | Classification: | Moderate    |
| Citation:    | 2D TWC Chapter 26, SubChapter A 26.121(a)<br>30 TAC Chapter 305, SubChapter F 305.125(1)  |                 |             |
| Description: | Failure to meet the limit for one or more permit parameter  |                 |             |
| Date         | 06/30/2011  | (967203)        | CN601181399 |
| Self Report? | YES   | Classification: | Moderate    |
| Citation:    | 2D TWC Chapter 26, SubChapter A 26.121(a)<br>30 TAC Chapter 305, SubChapter F 305.125(1)  |                 |             |
| Description: | Failure to meet the limit for one or more permit parameter  |                 |             |
| Date         | 07/31/2011  | (967204)        | CN601181399 |
| Self Report? | YES   | Classification: | Moderate    |
| Citation:    | 2D TWC Chapter 26, SubChapter A 26.121(a)<br>30 TAC Chapter 305, SubChapter F 305.125(1)  |                 |             |
| Description: | Failure to meet the limit for one or more permit parameter  |                 |             |

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

# TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN  
ENFORCEMENT ACTION  
CONCERNING  
CITY OF MULLIN  
RN102186756**

**§ BEFORE THE  
§  
§ TEXAS COMMISSION ON  
§  
§ ENVIRONMENTAL QUALITY**

## **AGREED ORDER DOCKET NO. 2011-2330-MWD-E**

### **I. JURISDICTION AND STIPULATIONS**

At its \_\_\_\_\_ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the City of Mullin ("the Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a wastewater treatment facility located approximately 3,100 feet south of the intersection of State Highway 183 and Farm-to-Market Road 573 and approximately 1,900 feet east of Farm-to-Market Road 573 in Mullin, Mills County, Texas (the "Facility").
2. The Respondent has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about December 10, 2011.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Eleven Thousand Five Hundred Dollars (\$11,500) is assessed by the Commission in settlement of the violations alleged in Section

II ("Allegations"). Two Thousand Three Hundred Dollars (\$2,300) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty. Nine Thousand Two Hundred Dollars (\$9,200) shall be conditionally offset by the Respondent's completion of a Supplemental Environmental Project ("SEP")."

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
10. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
11. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

## **II. ALLEGATIONS**

As owner and operator of the Facility, the Respondent is alleged to have:

1. Failed to comply with the permitted effluent limits, in violation of TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1), and Texas Pollutant Discharge Elimination System ("TPDES") Permit No. WQ0013758001, Effluent Limitations and Monitoring Requirements No. 1, as documented during a record review conducted on November 4, 2011. Specifically, the Respondent reported total suspended solids ("TSS") daily average concentration values of 23 milligrams per liter ("mg/L") for the monitoring period ending October 31, 2010, 26 mg/L for the monitoring period ending April 30, 2011, 28.5 mg/L for the monitoring period ending May 31, 2011, 21 mg/L for the monitoring period ending June 30, 2011, and 32.75 mg/L for the monitoring period ending July 31, 2011. The TSS daily average concentration permitted effluent limit is 20 mg/L.
2. Failed to collect and analyze samples for required parameters at the frequency specified in the permit, in violation of 30 TEX. ADMIN. CODE §§ 305.125(11)(a) and 319.4 and TPDES Permit No. WQ0013758001, Monitoring and Reporting Requirements Nos. 1 and 3.a., as documented during a record review conducted on November 4, 2011. Specifically,

the quarterly *Escherichia coli* samples were not collected or analyzed for the monitoring periods ending February 28, 2011 and May 31, 2011.

### III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

### IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: City of Mullin, Docket No. 2011-2330-MWD-E" to:  
  

Financial Administration Division, Revenues Section  
Attention: Cashier's Office, MC 214  
Texas Commission on Environmental Quality  
P.O. Box 13088  
Austin, Texas 78711-3088
2. The Respondent shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 6 (Jurisdiction and Stipulations) above, Nine Thousand Two Hundred Dollars (\$9,200) of the assessed administrative penalty shall be offset with the condition that the Respondent implement the SEP defined in Attachment A, incorporated herein by reference. The Respondent's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.
3. It is further ordered that the Respondent shall undertake the following technical requirements:
  - a. Update the Facility's operational guidance and conduct employee training to ensure that all samples are collected and analyzed for the permitted parameters at the minimum frequency, in accordance with TPDES Permit No. WQ0013758001, Monitoring and Reporting Requirements Nos. 1 and 3.a; and
  - b. Within 90 days after the effective date of this Agreed Order, submit written certification of compliance with the permitted effluent limitations of TPDES Permit No. WQ0013758001 and Ordering Provision No. 3.a, including specific corrective actions that were implemented at the Facility to achieve compliance and copies of the most current self-reported discharge monitoring reports, demonstrating at least three consecutive months of compliance with all permitted effluent limitations. The certification shall include detailed supporting documentation including photographs, receipts, and/or other records to

demonstrate compliance with the permitted effluent limitations. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team  
Enforcement Division, MC 149A  
Texas Commission on Environmental Quality  
P.O. Box 13087  
Austin, Texas 78711-3087

with a copy to:

Water Section, Manager  
Waco Regional Office  
Texas Commission on Environmental Quality  
6801 Sanger Avenue, Suite 2500  
Waco, Texas 76710-7826

4. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
5. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.

7. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
8. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
9. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

## SIGNATURE PAGE

### TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

\_\_\_\_\_  
For the Commission

  
For the Executive Director

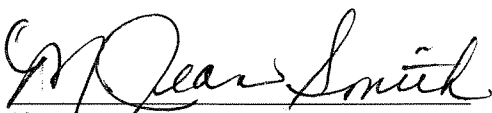
11/16/12  
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

  
Signature

8/21/12  
Date

M. JEAN Smith  
Name (Printed or typed)  
Authorized Representative of  
City of Mullin

MAYOR, City of Mullin  
Title

**Instructions:** Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.



## Attachment A

**Docket Number: 2011-2330-MWD-E**

### **SUPPLEMENTAL ENVIRONMENTAL PROJECT**

**Table 1: Case Information**

|                           |   |
|---------------------------|---|
| <b>Respondent:</b>        | City of Mullin                              |
| <b>Penalty Amount:</b>    | Nine Thousand Two Hundred Dollars (\$9,200) |
| <b>SEP Offset Amount:</b> | Nine Thousand Two Hundred Dollars (\$9,200) |
| <b>Type of SEP:</b>       | Compliance SEP                              |
| <b>Project Name:</b>      | <i>Sewer Repair Project</i>                 |
| <b>Location of SEP:</b>   | Mills County                                |

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset the administrative Penalty Amount assessed in this Agreed Order for Respondent to contribute to a Supplemental Environmental Project ("SEP"). The SEP Offset Amount is set forth above and such offset is conditioned upon completion of the project in accordance with the terms of this Attachment A.

#### **1. Project Description**

##### **A. Project**

Respondent is a Local Government that qualifies under Texas Water Code § 7.067 to apply the SEP Offset Amount set forth above to correct violations at its wastewater treatment facility which are described in this Agreed Order. This Agreed Order cites violations at the Respondent's wastewater treatment facility. Specifically, Respondent shall hire a certified contractor to vacuum out the clearwater effluent tank, cement around ten manholes and install manhole inflow protectors under each of the manhole covers (the "Project"). The SEP Offset Amount shall be spent on materials, supplies, equipment rental, and contractor services. Any advertisements related to the SEP must include the enforcement statement as stated in Section 6, Publicity, below.

Respondent shall use the SEP Offset Amount only for the direct cost of implementing the Project, including supplies, materials, and equipment rentals, as listed in Subsection C. Minimum Expenditure, Estimated Cost Schedule, below. No portion of the SEP Offset Amount shall be spent on administrative costs including, but not limited to, operating costs, reporting expenses, handling of expenses, project coordination, liability, or equipment breakdowns. The SEP will be performed in accordance with all federal, state, and local environmental laws and regulations.

Respondent's signature affixed to the attached Agreed Order certifies that Respondent has no prior commitment to perform this Project and that the SEP is being performed solely as part of the terms of settlement in this enforcement action.

**B. Environmental Benefit**

This SEP will provide a discernible environmental benefit by improving the quality of wastewater effluent being released into the environment. Inadequately treated effluent can carry bacteria, viruses, protozoa (parasitic organisms), helminthes (intestinal worms), and bioaerosols (inhalable molds and fungi). The diseases they may cause range in severity from mild gastroenteritis (causing stomach cramps and diarrhea) to life-threatening ailments such as cholera, dysentery, infectious hepatitis, and severe gastroenteritis.

**C. Minimum Expenditure**

Respondent shall spend at least the SEP Offset Amount to complete the Project described in Section 1, above, and comply with all other provisions of this SEP. Respondent understands that it may cost more than the SEP Offset Amount to complete the Project.

**Estimated Cost Schedule**

| <b>Item</b>  | <b>Quantity</b> | <b>Cost</b> | <b>Units</b> | <b>Total</b>    |
|--|-----------------|-------------|--------------|-----------------|
| Pumper truck   | 6000            | \$0.50      | Gallons      | \$3,000         |
| Contract labor and equipment cost for manhole repair | 10              | \$960       | Each         | \$9,600         |
| <b>Total</b>   |                 |             |              | <b>\$12,600</b> |

**2. Performance Schedule**

Within 30 days after the effective date of this Agreed Order, Respondent shall begin implementation of the SEP. Respondent shall have completed the SEP in its entirety within 90 days after the effective date of this Agreed Order.

**3. Records and Reporting**

**A. Progress Report**

Within 30 days after the effective date of this Agreed Order, Respondent shall submit a Notice of Commencement to the TCEQ describing actions performed to-date to implement the Project. Within 60 days of the effective date of this Agreed Order, Respondent shall submit a report detailing the progress made and all actions completed on the Project during the previous 30-day period and setting forth a schedule for achieving completion of the Project within the 90-day time-frame set forth in Section 2, Performance Schedule, above.

The Reporting Schedule table is below:

| <b>Days from<br/>Effective Order<br/>Date</b> | <b>Information Required</b>                                      |
|---|--|
| 30  | Notice of Commencement describing actions taken to begin project |
| 60  | Actions completed during previous 30-day period                  |
| 90  | Notice of SEP completion   |

**B. Final Report**

Within 90 days after the effective date of the Agreed Order, or within 30 days after completion of SEP, Respondent shall submit a Final Report to the TCEQ, which shall include the following:

1. Itemized list of expenditures and total cost of the Project;
2. Copies of invoices, paid receipts, cleared checks or payment records corresponding to the itemized list in paragraph 3.B.1., above;
3. Dated photographs of equipment being removed; purchased equipment; and before and after work being performed during the installation process;
4. Detailed map showing exact location(s) of manholes. The map must be of sufficient detail to allow TCEQ staff to verify the location of the completed project;
5. A notarized/certified statement and supporting documentation demonstrating the quantifiable environmental benefits achieved as a result of the Project; and
6. Any additional information demonstrating compliance with this Attachment A.

**C. Address**

Respondent shall submit all SEP reports and any additional information as requested to the following address:

Texas Commission on Environmental Quality  
Litigation Division  
Attention: SEP Coordinator, MC 175  
P.O. Box 13087  
Austin, Texas 78711-3087

**4. Additional Information and Access**

Respondent shall provide additional information as requested by TCEQ staff, and shall allow access to all records related to the SEP Offset Amount. Respondent shall also allow representatives of the TCEQ access to the site of any work being financed in whole or in part by the SEP Offset Amount. This provision shall survive the termination of this Agreed Order.

**5. Failure to Fully Perform**

If Respondent does not perform its obligations under this Attachment A, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Sections 2 through 4, above, the Executive Director ("ED") may require immediate payment of all or part of the SEP Offset Amount as set forth in the attached Agreed Order.

In the event the ED determines that Respondent failed to fully implement and complete the Project, Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and as set forth in the attached Agreed Order. Respondent shall include the docket number of the attached Agreed Order and a note that the enclosed payment is for reimbursement of a SEP, shall make the check payable to "Texas Commission on Environmental Quality," and shall mail it to:

Texas Commission on Environmental Quality  
Litigation Division  
Attention: SEP Coordinator, MC 175  
P.O. Box 13087  
Austin, Texas 78711-3087

**6. Publicity**

Any public statements concerning this Project made by or on behalf of Respondent must include a clear statement that **the Project was performed as part of the settlement of an enforcement action brought by the TCEQ**. Such statements include advertising, public relations, and press releases.

**7. Clean Texas Program**

Respondent shall not include this Project in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

**8. Other SEPs by TCEQ or Other Agencies**

The SEP Offset Amount identified in this Attachment A and in the attached Agreed Order has not been, and shall not be, included as a SEP for Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.

## Attachment A

**Docket Number: 2011-2330-MWD-E**

### **SUPPLEMENTAL ENVIRONMENTAL PROJECT**

**Table 1: Case Information**

|                           |   |
|---------------------------|---|
| <b>Respondent:</b>        | City of Mullin                              |
| <b>Penalty Amount:</b>    | Nine Thousand Two Hundred Dollars (\$9,200) |
| <b>SEP Offset Amount:</b> | Nine Thousand Two Hundred Dollars (\$9,200) |
| <b>Type of SEP:</b>       | Compliance SEP                              |
| <b>Project Name:</b>      | <i>Sewer Repair Project</i>                 |
| <b>Location of SEP:</b>   | Mills County                                |

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset the administrative Penalty Amount assessed in this Agreed Order for Respondent to contribute to a Supplemental Environmental Project ("SEP"). The SEP Offset Amount is set forth above and such offset is conditioned upon completion of the project in accordance with the terms of this Attachment A.

#### **1. Project Description**

##### **A. Project**

Respondent is a Local Government that qualifies under Texas Water Code § 7.067 to apply the SEP Offset Amount set forth above to correct violations at its wastewater treatment facility which are described in this Agreed Order. This Agreed Order cites violations at the Respondent's wastewater treatment facility. Specifically, Respondent shall hire a certified contractor to vacuum out the clearwater effluent tank, cement around ten manholes and install manhole inflow protectors under each of the manhole covers (the "Project"). The SEP Offset Amount shall be spent on materials, supplies, equipment rental, and contractor services. Any advertisements related to the SEP must include the enforcement statement as stated in Section 6, Publicity, below.

Respondent shall use the SEP Offset Amount only for the direct cost of implementing the Project, including supplies, materials, and equipment rentals, as listed in Subsection C. Minimum Expenditure, Estimated Cost Schedule, below. No portion of the SEP Offset Amount shall be spent on administrative costs including, but not limited to, operating costs, reporting expenses, handling of expenses, project coordination, liability, or equipment breakdowns. The SEP will be performed in accordance with all federal, state, and local environmental laws and regulations.

Respondent's signature affixed to the attached Agreed Order certifies that Respondent has no prior commitment to perform this Project and that the SEP is being performed solely as part of the terms of settlement in this enforcement action.

**B. Environmental Benefit**

This SEP will provide a discernible environmental benefit by improving the quality of wastewater effluent being released into the environment. Inadequately treated effluent can carry bacteria, viruses, protozoa (parasitic organisms), helminthes (intestinal worms), and bioaerosols (inhalable molds and fungi). The diseases they may cause range in severity from mild gastroenteritis (causing stomach cramps and diarrhea) to life-threatening ailments such as cholera, dysentery, infectious hepatitis, and severe gastroenteritis.

**C. Minimum Expenditure**

Respondent shall spend at least the SEP Offset Amount to complete the Project described in Section 1, above, and comply with all other provisions of this SEP. Respondent understands that it may cost more than the SEP Offset Amount to complete the Project.

**Estimated Cost Schedule**

| Item   | Quantity | Cost   | Units   | Total           |
|--|----------|--------|---------|-----------------|
| Pumper truck   | 6000     | \$0.50 | Gallons | \$3,000         |
| Contract labor and equipment cost for manhole repair | 10       | \$960  | Each    | \$9,600         |
| <b>Total</b>   |          |        |         | <b>\$12,600</b> |

**2. Performance Schedule**

Within 30 days after the effective date of this Agreed Order, Respondent shall begin implementation of the SEP. Respondent shall have completed the SEP in its entirety within 90 days after the effective date of this Agreed Order.

**3. Records and Reporting**

**A. Progress Report**

Within 30 days after the effective date of this Agreed Order, Respondent shall submit a Notice of Commencement to the TCEQ describing actions performed to-date to implement the Project. Within 60 days of the effective date of this Agreed Order, Respondent shall submit a report detailing the progress made and all actions completed on the Project during the previous 30-day period and setting forth a schedule for achieving completion of the Project within the 90-day time-frame set forth in Section 2, Performance Schedule, above.

The Reporting Schedule table is below:

| <b>Days from<br/>Effective Order<br/>Date</b> | <b>Information Required</b>                                      |
|---|--|
| 30  | Notice of Commencement describing actions taken to begin project |
| 60  | Actions completed during previous 30-day period                  |
| 90  | Notice of SEP completion   |

**B. Final Report**

Within 90 days after the effective date of the Agreed Order, or within 30 days after completion of SEP, Respondent shall submit a Final Report to the TCEQ, which shall include the following:

1. Itemized list of expenditures and total cost of the Project;
2. Copies of invoices, paid receipts, cleared checks or payment records corresponding to the itemized list in paragraph 3.B.1., above;
3. Dated photographs of equipment being removed; purchased equipment; and before and after work being performed during the installation process;
4. Detailed map showing exact location(s) of manholes. The map must be of sufficient detail to allow TCEQ staff to verify the location of the completed project;
5. A notarized/certified statement and supporting documentation demonstrating the quantifiable environmental benefits achieved as a result of the Project; and
6. Any additional information demonstrating compliance with this Attachment A.

**C. Address**

Respondent shall submit all SEP reports and any additional information as requested to the following address:

Texas Commission on Environmental Quality  
Litigation Division  
Attention: SEP Coordinator, MC 175  
P.O. Box 13087  
Austin, Texas 78711-3087

**4. Additional Information and Access**

Respondent shall provide additional information as requested by TCEQ staff, and shall allow access to all records related to the SEP Offset Amount. Respondent shall also allow representatives of the TCEQ access to the site of any work being financed in whole or in part by the SEP Offset Amount. This provision shall survive the termination of this Agreed Order.

**5. Failure to Fully Perform**

If Respondent does not perform its obligations under this Attachment A, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Sections 2 through 4, above, the Executive Director ("ED") may require immediate payment of all or part of the SEP Offset Amount as set forth in the attached Agreed Order.

In the event the ED determines that Respondent failed to fully implement and complete the Project, Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and as set forth in the attached Agreed Order. Respondent shall include the docket number of the attached Agreed Order and a note that the enclosed payment is for reimbursement of a SEP, shall make the check payable to "Texas Commission on Environmental Quality," and shall mail it to:

Texas Commission on Environmental Quality  
Litigation Division  
Attention: SEP Coordinator, MC 175  
P.O. Box 13087  
Austin, Texas 78711-3087

**6. Publicity**

Any public statements concerning this Project made by or on behalf of Respondent must include a clear statement that **the Project was performed as part of the settlement of an enforcement action brought by the TCEQ**. Such statements include advertising, public relations, and press releases.

**7. Clean Texas Program**

Respondent shall not include this Project in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

**8. Other SEPs by TCEQ or Other Agencies**

The SEP Offset Amount identified in this Attachment A and in the attached Agreed Order has not been, and shall not be, included as a SEP for Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.